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Letter dated 16 May 2011 from the Secretary-General addressed to the President of the Security Council

I have the honour to transmit the attached communication dated 29 April 2011, which I have received from the Chairperson of the African Union Commission, Mr. Jean Ping, forwarding the communiqué on the situation in Libya adopted by the Peace and Security Council of the African Union at its 275th meeting, held in Addis Ababa on 26 April 2011 (see annex).

I should be grateful if you would bring the present letter to the attention of the members of the Security Council.

(*Signed*) BAN Ki-moon

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Please recycle

Annex

[Original: English]

I am writing to you with respect to the situation in Libya, a major concern to African Union member States over the past few months. As you are aware, the African Union High-level ad hoc Committee on Libya has been making sustained efforts to engage the Libyan parties on the African Union road map that was adopted by the African Union Peace and Security Council (PSC) at its 265th meeting, on 10 March 2011.

Clearly, while the parties remain far apart from agreeing on the conditions required for the commencement of negotiations on a ceasefire and political reforms necessary to address the causes of the current crisis, we at the African Union feel encouraged to pursue our efforts in view of the unconditional acceptance of the African Union road map by the Libyan Government, and the commitment made by the Transitional National Council to study our proposals in depth and provide a feedback. Indeed, after the Committee's two separate interactions with the delegation of the Libyan Arab Jamahiriya and with the Transitional National Council in Addis Ababa, on 25 and 26 April 2011, it requested them to forward a document outlining their respective positions on the conditions and modalities of the implementation of the elements of the African Union road map.

The African Union is all the more determined to press ahead towards reducing the scale of fighting and other military operations that can only complicate the situation, put the people of Libya at a greater risk, worsen the humanitarian situation and further set hurdles in the search for a peaceful solution to the crisis.

I am forwarding, herewith attached, the communiqué on Libya, of the 275th meeting of the Peace and Security Council, which was held in Addis Ababa on 26 April 2011.

I would like to stress that while African Union member States are committed to the implementation of Security Council resolution 1973 (2011), whose sole purpose is the protection of the civilian population, they deem it fundamentally essential that all those who are involved in the implementation of its provisions fully comply with international legality.

Africa, and the neighbouring countries, in particular, stand to be the most affected by the continuation and aggravation of the current situation. Accordingly, our continent has a vital interest in the early resolution of the crisis in Libya within the framework of a Libyan-owned process.

I have no doubt that the African Union can count on your personal commitment and support, as reiterated by your Special Envoy for Libya, Mr. Abdel Elah al-Khatib, during his recent interaction with the ad hoc Committee in Addis Ababa, and that our two Organizations together with the League of Arab States, the Organization of the Islamic Conference and the European Union would, as provided for in paragraph 9 of the Peace and Security Council communiqué, effectively join efforts "to finalize promptly appropriate consultations with the Libyan parties ... in order to prepare the ground for the early holding, in a venue agreeable to the parties, ... of negotiations on a ceasefire and the other aspects of the Libyan crisis.

I should be most grateful if you would circulate the present letter and its attachment to the members of the Security Council for their information and action, as appropriate.

(*Signed*) Jean **Ping**

Attachment

Communiqué of the 275th meeting of the Peace and Security Council

The Peace and Security Council of the African Union (AU), at its 275th meeting held on 25 April 2011 at ministerial level, adopted the following decision on the situation in Libya:

Council:

1. Takes note of the report of the Chairperson of the Commission on the activities of the African Union High-level Ad Hoc Committee on the situation in Libya [PSC/PR/2 (CCLXXV)], as well as of the statements made by the representatives of the Libyan Arab Jamahiriya, the neighbouring countries of Libya and the other countries of the region. Council also takes note of the additional information provided by the Commission on the interaction between the Ad Hoc Committee, meeting at ministerial level in Addis Ababa, on 25 April 2011, and the Libyan parties, namely the representatives of the Government of the Libyan Arab Jamahiriya and those of the Transitional National Council (TNC) of Libya, as well as with the neighbouring countries of Libya, the other countries of the region and the AU partner organizations;

2. Recalls its previous communiqués on the situation in Libya, and reiterates the AU's deep concern at the continued fighting in Libya and its humanitarian consequences, the loss of human lives, and the resulting implications for the country's long-term security and stability, its national unity and territorial integrity, and for the region as a whole;

3. Reaffirms its strong commitment to the respect for the unity and territorial integrity of Libya;

4. Expresses its sincere appreciation to the members of the AU High-level Ad Hoc Committee on Libya, established by the 265th meeting of Council, held on 10 March 2011, for their commitment and the sustained efforts being made in pursuance of the mandate entrusted to the Committee, including the various meetings held, the engagement of the Libyan parties, in particular the visit undertaken to Tripoli and Benghazi, on 10 and 11 April 2011, respectively, and the interaction with the international partners;

5. Underscores, once again, the legitimacy of the aspirations of the Libyan people for democracy, political reform, justice, peace and security, as well as for socio-economic development, and the need to ensure that these aspirations are fulfilled in a peaceful and democratic manner. Council reaffirms. In this context, the relevance of the AU road map for the resolution of the Libyan crisis, as articulated in paragraph 7 of its communiqué PSC/PR/COMM 2 (CCLXV) of 10 March 2011 and further elaborated in the communiqués issued by the AU High-level Ad Hoc Committee on Libya at its Nouakchott meetings of 19 March and 9 April 2011;

6. Welcomes the acceptance by the Libyan Government, including Colonel Muammar Qaddafi, of the AU road map, including the specific issue of the ceasefire and deployment of an effective and credible monitoring mechanism. Council takes note of the Ad Hoc Committee's extensive discussions with the Chairman and members of the TNC, in Benghazi, on 11 April 2011, and with a TNC delegation, in

Addis Ababa, on 25 April 2011, as well as the regular interaction between the Commission and the TNC leadership;

7. Further welcomes the TNC's engagement with the Ad Hoc Committee and the information provided on its vision for the future of Libya and its position on the ongoing efforts by the AU to facilitate an early solution to the crisis in Libya, including the need for an urgent ceasefire, to be monitored by a credible and effective international mechanism, as well as an inclusive and consensual transition leading to the adoption and implementation of the necessary political reforms to address the causes of the current crisis, including the holding of democratic elections to enable the Libyans to freely choose their leaders;

8. Reiterates its full support for the work of the Ad Hoc Committee, which is appropriately placed to facilitate the early resolution of the crisis in Libya. Council encourages the Committee to continue and intensify its efforts within the framework of its mandate and in a manner consistent with, and complementary to, United Nations Security Council resolution 1973 (2011), which duly recognizes the role of the Committee in seeking a peaceful and lasting solution to the Libyan crisis;

9. Requests the Committee and the Commission to finalize promptly appropriate consultations with the Libyan parties and the multilateral and bilateral partners, in order to prepare the ground for the early holding, in a venue agreeable to the parties and under the auspices of the AU, the League of Arab States, the Organization of the Islamic Conference, the European Union and the United Nations, of negotiations on a ceasefire and the other aspects of the Libyan crisis. Council urges the Libyan parties to extend the necessary cooperation to the Committee. Council stresses that there should be no preconditions for the commencement of the negotiations, whose purpose is precisely to address the concerns of all the parties and to facilitate a compromise on the best way forward;

10. Welcomes the steps taken and efforts made to interact with AU international partners, in particular the United Nations, the League of Arab States, the Organization of the Islamic Conference and the European Union, as well as the Libya Contact Group, the BRICS and bilateral partners. Council urges the Ad Hoc Committee and the Commission to continue to engage the partners, and requests the said partners to extend the necessary cooperation to AU's efforts bearing in mind the provisions of Chapter VIII of the Charter of the United Nations on the role of regional arrangements in the settlement of disputes among and within their member States. In this respect, Council requests the Commission, in consultation with the Ad Hoc Committee, to liaise with the United Nations in order to schedule a briefing to the Security Council and engagement with it on the AU's road map and its efforts to resolve the Libyan crisis;

11. Reiterates the AU's commitment to the respect for resolution 1973 (2011). In this regard, Council stresses the need for all countries and organizations involved in the implementation of Security Council resolution 1973 (2011) to act in a manner fully consistent with international legality and the resolution's provisions, whose objective is solely to ensure the protection of the civilian population. Council urges all involved to refrain from actions, including military operations targeting Libyan senior officials and socio-economic infrastructure, that would further compound the situation and make it more difficult to achieve international consensus on the best way forward;

12. Invites the Chairperson of the Commission to request the African Commission on International Law to urgently convene a meeting to consider in depth the scope and legal implications of resolutions 1970 (2011) and 1973 (2011), in order to submit to it an expert view on the obligations of United Nations Member States, including the African countries, under these resolutions, for the purpose of facilitating follow-up and implementation at continental level, as well as interaction with the Security Council and concerned international partners on the evaluation of the implementation of these two resolutions;

13. Demands that all parties concerned fully respect international humanitarian law and facilitate the unimpeded access for humanitarian agencies to the needy populations, and also that the Libyan Government take all necessary steps to ensure the protection of its own population. Council strongly condemns the attacks and other abuses directed at African migrant workers, and demands that they cease forthwith. Council requests the Chairperson of the Commission to establish, with the support of the African Commission on Human and Peoples' Rights, a Commission of Inquiry on the situation of the African migrant workers in Libya, as well as on allegations of recourse to mercenaries in the ongoing hostilities, and to report to it as early as possible;

14. Expresses appreciation to all humanitarian agencies providing assistance to the needy populations and facilitating the evacuation of third-country nationals. Council encourages the Commission to pursue the efforts initiated to facilitate the mobilization of resources for the socio-economic reintegration of the African migrant workers who left Libya;

15. Reaffirms the legitimacy and seriousness of the concerns of the countries of the northern and Sahelo-Saharan regions with regard to the humanitarian and security implications of the current situation in Libya, in particular as it relates to the proliferation of arms, terrorism and transnational crime, and requests the Commission to continue to work closely with the countries concerned to identify ways to address these challenges;

16. Decides to remain actively seized of the matter.